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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,671	01/18/2001	Jeffrey Scott Eder		5378

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EXAMINER

RETTA, YEHDEGA

ART UNIT PAPER NUMBER

3622

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/761,671

Applicant(s)

EDER, JEFFREY SCOTT *S*

Examiner

Yehdega Retta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35-68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Response to Amendment

This office action is responsive to amendment filed July 27, 2004. Claims 1-34 have been cancelled and new claims 35-68 have been added.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 65-68 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological art; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical science as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For the process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

The independently claimed steps of aggregating data and analyzing data do not require structural interaction or mechanical intervention such that the invention falls within the

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technological arts permitting statutory patent protection. The claimed step of aggregating data and analyzing data does not apply, involve, use or advance the technological arts since all of the recited steps can be performed in the mind of user or by use of a pencil and paper. Claims reciting those steps can be performed by interpersonal communications such that the claimed steps can be performed without a physical structure or mechanical object.

Additionally, for a claimed invention to be statutory the claimed invention must produce a useful, concrete and tangible result. In the present case, the claimed invention does not produce a useful, concrete and tangible result and since the claimed invention, as a whole, is not with the technological art as explained above, the claims are deemed to be directed to non-statutory matter.

However in order to examine the claimed invention in light of the prior art, further rejections will be made on the assumption that those claims are statutorily permitted.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 68 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 68 recites a system however there are no system components claimed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 65-68 are rejected under 35 U.S.C. 102(b) as being anticipated by “How to sort out the premium drivers of post-deal value” Bielinski, Daniel W. Mergers and Acquisitions: Jul/Aug 1993, Vol. 28, Iss.1; pg. 33, 5 pgs (hereinafter Bielinski).

Regarding claim 65, Bielinski teaches aggregating enterprise transaction data, analyzing the data ... (see pgs. 1-5). No patentable weight is given the claim “to identify value drivers and create summaries of element impact... since is just intended use. There is no method claim recites that indicate value drivers were identified and summary was created.

Regarding claim 66, Bielinski teaches financial performance selected from the group consisting of revenue, expense, cash etc., (see pgs 1&2).

Regarding claim 67 Bielinski teaches element of value selected from the group consisting of brands, customers, employees, etc., (see pg 2).

Regarding claim 68, Bielinski teaches valuing element of value (see pgs.1-5).

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 35-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over “How to sort out the premium drivers of post-deal value” Bielinski, Daniel W. Mergers and Acquisitions: Jul/Aug 1993, Vol. 28, Iss.1; pg. 33, 5 pgs (hereinafter Bielinski), further in view of “Computers” Brown, Carol E, Coakley, James, Phillips, Mary Ellen, Management Accounting, Montvale, May 1995 (hereinafter Brown).

Regarding claims 35, 36, 40-47, 48, 49, 53-56, 58, 60-63, Bielinski teaches aggregating enterprise related transaction data from one or more enterprise management system, creating performance indicators, analyzing historical and forecast data for aspects of financial performance using indication algorithms and value driver candidates and creating impact summaries (see page 1-5). Bielinski teaches using computerized models to estimate the value of a company, facilitating value creation, analyzing historical data and forecast data, however does not teach training neural network models for one or more aspects of financial performance using performance indicators. Brown teaches valuation using neural network and training neural network models for aspects of financial performance using indicators (see pgs 1-2 and 5-6). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention was made to implement Browns teaching by using neural network to analyze data since it is well

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known that neural network increase score prediction accuracy and enable fast, accurate score model implementation.

Regarding claims 37, 50, 59, 64, Bielinski teaches element of value selected from the group consisting of brands, customers, employees, etc., (see pg 2).

Regarding claim 38 and 51 Bielinski teaches financial performance selected from the group consisting of revenue, expense, capital change, cash flow etc., (see pgs 1&2).

Regarding claim 39, 52 and 57 Bielinski teaches logged or recorded events for transaction data (see pg. 2).

Response to Arguments

Applicant's arguments with respect to claims 35-68 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

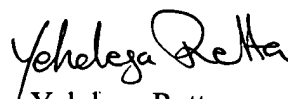
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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (703) 305-0436. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (703) 305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yehdega Retta
Primary Examiner
Art Unit 3622

YR